

Appl. No. 09/915,082
Amdt. dated April 29, 2005
Reply to Office action of March 7, 2005

REMARKS/ARGUMENTS

Applicants have received the Office action dated March 7, 2005, in which the Examiner: (1) objected to claims 12 and 42; (2) rejected claims 2-5, 9-29 and 37 under 35 U.S.C. § 112, 2nd paragraph; and (3) rejected claims 1-42 under 35 U.S.C. § 103(a) as being obvious over Fung (U.S. Pat. No. 6,859,882). With this Response, Applicants amend claims 1, 3-5, 7-12, 15-16, 19-21, 24, 26, 29-30, 33-37 and 42. Based on the arguments and amendments contained herein, Applicants believe this case is in condition for allowance.

I. CLAIM OBJECTIONS AND § 112, SECOND PARAGRAPH, REJECTIONS

With one exception, all concerns with the objections to claims 12 and 42 and § 112 rejections of the claims have been addressed by way of amendment.

The one exception is dependent claim 2 which specifies that the "network comprises the Internet." This claim is very clear, which is the hallmark requirement of § 112, 2nd paragraph. Further, the MPEP provides that:

[T]he failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. Inherent components of elements recited have antecedent basis in the recitation of the components themselves. For example, the limitation "the outer surface of said sphere" would not require an antecedent recitation that the sphere has an outer surface.

MPEP § 2173.05(e) (citations omitted). Applicants believe that claim 2 already complies with § 112, 2nd paragraph, and thus does not need amendment.

II. THE ART REJECTIONS

Applicants amend claim 1 to specify that the load balance and power management logic "identifies a computer that is operating less efficiently than another computer." This less efficient computer is the computer whose power state is changed based on transactions on the network. Applicants do not find any teaching in Fung of "load balancer and power management logic [that] identifies a computer that is operating less efficiently than another computer and changes the power state of the identified computer based on transactions on said network" as recited in claim 1. At least for this reason, claim 1 and all claims

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dependent thereon are allowable over Fung. An amendment was also made to dependent claims 3, 5, and 8 to maintain consistency with the amended language of claim 1.

Applicants amend claim 9 to specify that master PMA causes the "transaction processing computer that is determined to operate slower than another computer to change from one power state to another power state." Applicants do not find any teaching in Fung of this feature. At least for this reason, claim 9 and all claims dependent thereon are allowable over Fung. An amendment was also made to dependent claims 15, 19, and 20 to maintain consistency with the amended language of claim 9.

Applicants amend claim 21 to specify that master PMA maximizes a performance of the data center "by changing an operational state of a transaction processing computer that is determined to operate slower than at least one other transaction processing computer." Applicants do not find any teaching in Fung of this feature. At least for this reason, claim 21 and all claims dependent thereon are allowable over Fung.

Applicants amend claim 26 to specify that master PMA reduces an overall power usage of a data center "by causing a transaction processing computer, determined to be operating less efficiently than another transaction processing computer, to transition to a lower power consumption state." Applicants do not find any teaching in Fung of this feature. At least for this reason, claim 26 and all claims dependent thereon are allowable over Fung. An amendment was also made to dependent claim 29 to maintain consistency with the amended language of claim 26.

Applicants amend claim 30 to require "identifying a computer that is operating slower than another computer" and "if said parameter [associated with the network] falls outside a defined range, changing a power state of the identified computer." Again, Fung does not appear to teach or suggest this feature. At least for this reason, claim 30 and all claims dependent thereon are allowable over Fung. An amendment was also made to dependent claims 33 and 34 to maintain consistency with the amended language of claim 30.

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Applicants amend claim 35 to require the power management logic to change the power state of at least one computer "that is determined to operate with less efficiency than another computer." This limitation is missing from Fung. At least for this reason, claim 35 and all claims dependent thereon are allowable over Fung. An amendment was also made to dependent claim 36 to maintain consistency with the amended language of claim 35.

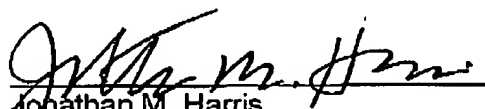
III. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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